

## **Exhibit D**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Wesley S. Mullinax, Billy Wesley Owen ) Civil Action No.6:12-cv-01405-TMC  
Addis, William D. Smith, Jr., and John T. )  
Cox, all individually and on behalf of all )  
other similarly situated individuals, )  
Plaintiffs, ) **AFFIDAVIT OF**  
vs. ) **M. MALISSA BURNETTE, ESQ.**  
Parker Sewer & Fire Subdistrict, ) **IN SUPPORT OF**  
Defendant. ) **DAVID E. ROTHSTEIN, ESQ.**  
\_\_\_\_\_  
STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

PERSONALLY appeared before me M. Malissa Burnette who, after being duly sworn,  
deposes and states the following:

1. I am a partner in the firm of Callison, Tighe & Robinson, LLC in Columbia, South Carolina.
2. I graduated from the University of South Carolina School of Law in 1977. I was an attorney for the Governor of South Carolina from 1977-1979. I served as Chief of Staff for the Lieutenant Governor of South Carolina from 1979-1982. After managing the campaign for Attorney General Travis Medlock in 1982, I co-founded the law firm of Gergel & Burnette in Columbia. In 1996, I co-founded the law firm of Burnette & Leclair, P.A., which in 2005 became Burnette &

Rothstein, P.A. I merged my practice with Callison, Tighe & Robinson, LLC in August 2010 when I was invited to join the firm as a member.

3. I have been a Certified Specialist in Employment and Labor Law since 1993, a Certified United States District Court Mediator since 2010, have taught over fifty employment law CLE's, and have extensive experience in the field of employment law. I am admitted to practice in the United States District Court, the Fourth Circuit Court of Appeals and the United States Supreme Court. I am the co-author and editor of all four editions of Labor and Employment Law for South Carolina Lawyers, (S.C. Bar) In May 2011 I received the first Distinguished Lawyer Award from the South Carolina Bar's Employment and Labor Law Section.

4. I have known and worked with David E. Rothstein for approximately fifteen years. We were law partners from 2005 through most of 2010. During that time I had the opportunity to closely observe his work habits and to interact with him on a daily basis. I can verify that he works diligently, efficiently and effectively for his clients. He is well-qualified to handle a complex employment or wage and hour case such as representing the plaintiffs named in this matter, as he has successfully prosecuted similar cases involving large classes of plaintiffs.

5. I have carefully reviewed Mr. Rothstein's fee petition, and am aware that he devoted approximately 280 hours to representing his clients, and that he has voluntarily reduced his contingency fee from one-third to thirty percent (30%) of the gross settlement amount, resulting in an approximate hourly rate of \$300.00. Mr. Rothstein has incurred costs of approximately \$5500.00. The amount of time expended and the costs incurred appear to be very reasonable, given the amount and type of tasks involved. Having practiced in a two-lawyer firm for much of my own career, I believe that the time expended and the costs incurred in this case would be substantially challenging

for a solo practitioner, and would impact his ability to work on income-generating hourly-fee cases.

6. My regular fee rate is \$300.00 per hour, and is higher in certain cases. In contingent fee cases, I normally agree with my client to a one-third fee if the matter is settled prior to litigation, and 40% if a case goes to court. I believe these hourly rates and contingency percentages are reasonable given my years of experience and the fees customarily charged in this area for this type of legal representation. Mr. Rothstein's \$300 per hour rate and a 30% contingency fee are within — or even below — the range of fees that are consistent with his legal experience, and that are customary in the community for this type of legal work.

M. Malissa Burnette  
M. Malissa Burnette

SWORN and subscribed to before me  
this 14th day of January, 2014

Denise Minor  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My Commission Expires: 2-11-2018